

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION**

**CRIMINAL CASE NO. 2:09cr29-1**

**UNITED STATES OF AMERICA,** )

)

)

**vs.**

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)

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**ALBERT ESPINOZA.**

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**ORDER**

**THIS MATTER** is before the Court on the Defendant's Request for Reconsideration [Doc. 87].

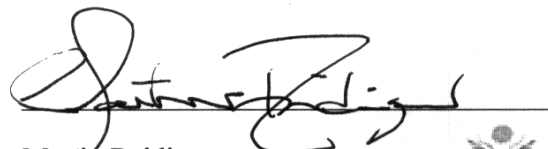
On January 11, 2010, the Court denied the Defendant's motion to continue as premature. [Doc. 85]. The denial was based on the Defendant's earlier motion for an extension of time within which to file a plea agreement, a request which had been granted. [Doc. 74]. The Court found counsel's positions in conflict. On one hand, counsel sought additional time within which to negotiate and consider a plea agreement with his client. On the other hand, he later moved to continue the case from the trial calendar. Because the time within which the Defendant may file a plea agreement has not yet run, the Court denied the motion to

continue as premature so that counsel may continue with his negotiations and discussions with the Government and his client.

Defense counsel now seeks reconsideration, claiming the Court has placed the Defendant in “an unfair catch 22 position in making” a decision about whether to pled guilty when his attorney is not prepared to try the case. The Court has not placed the Defendant in any position; indeed, the Court has granted the very relief sought, an extension of time within which to consider pleading guilty. Counsel remains capable of evaluating the wisdom of entering into a plea agreement, reviewing discovery and continuing discussions with the Government and the Defendant.

**IT IS, THEREFORE, ORDERED** that the Defendant’s Request for Reconsideration [Doc. 87] is hereby **DENIED**.

Signed: January 14, 2010

  
Martin Reidinger  
United States District Judge

